



Ensuring Sound Tenure Decisions

Reject Proposed Tenure Law Changes

The Senate and Assembly one house budget bills propose changes relating to teacher tenure. Please **do not approve** these changes. Enactment only risks imposing further costs on schools. They do not assist the process.

Under existing law, it is excessively costly and time consuming for school districts to remove *tenured* teachers who have demonstrated that they should not be in the classroom, either because of poor performance or improper behavior. The proposed language would restrict the ability of school districts to consider important and relevant factors in deciding whether to grant tenure.

The Proposals

“Shall include” vs. “Shall include but not be limited to”: Current law enumerates a list of considerations that school districts are to consider in deciding whether to grant tenure to an early career teacher. These include use of student data to improve instruction, review by other teachers, and performance assessment by principals. But current law also allows local districts to establish additional considerations. The bill would delete the words “not be limited to,” thereby restricting local discretion to establish additional factors, including factors that both management and teachers accept as valid.

The bill would curtail local authority to establish additional criteria for the approval of tenure and senselessly require the discontinuation of current local practices that go beyond the prescribed requirements that have proven effective and enjoy acceptance from both school district leaders and teachers.

“Relevant” Student Data: Current law permits student performance data to be used when making teacher tenure determinations. The proposal would narrow this to “relevant” student performance data.

There is no reason for this change. The qualifying language suggests a district would use irrelevant data to make determinations. They would not. This would defy logic and deny due process. Further, adding the qualifying word into law makes the entire subject of data one which could be grieved, prolonging tenure deliberations and risking rash judgments about the most critical school resource influencing student performance.

“Where Appropriate”: In the same section as above, the proposal would add the qualifying words, “where appropriate.”

This again forces negotiation and invites grievances over when it is “appropriate” to use data. Relevant data is always relevant to assessing performance. It is instructive, in part, to determine pedagogical competence and teacher success. Requiring grievances and possible collective negotiations on the use of data is bad public policy. Management should be able to look at all factors pertaining to teaching, as they do now.

“Peer Review”: An element of evaluating teachers is peer review. The proposal would subject peer review to collective bargaining. Unions would seek to negotiate peer review teams as part of their contracts.

Peer review is instructive. Teachers are able to be part of the evaluation of their peers as those people come up for tenure review. Teacher peer reviews should and do take place routinely. Restricting them through negotiations would upend the process. Peer review should not be held up because contract negotiations stall.

Conforming to Regulations

It has been suggested these changes are required. They are not. The law need not be changed to conform to regulations.

In fact, the Board of Regents just approved (March 18) new draft regulations on the tenure process. These will be finalized in April for July 1 implementation. Legislative action risks undoing deliberative regulatory enhancements to the tenure process.

Real Tenure reform

Legislators have more important matters to attend to than restating regulations. Legislators wishing to be helpful ensuring students are taught by the most effective teachers possible should consider modifications to tenure which *do* require legislative action:

1. Establish a state hearing panel to hear and decide 3020-a cases, instead of relying upon private arbitrators;
2. Authorize school districts to terminate a tenured employee without a formal hearing *if* he or she:
 - a. has been convicted of a child abuse in an educational setting
 - b. has had certification revoked by SED
 - c. has failed to obtain permanent certification in the required time periods
3. Authorize unpaid suspensions for teachers awaiting a 3020-a process; or cap the length of time they are paid during the pendency of such proceedings.
4. Clarify educators charged under 3020-a must cooperate in school district inquiries of the charges; and
5. Require educators facing 3020-a hearings to disclose the nature of their defense prior to the hearing.

Conclusion

New York faces huge economic hurdles. You and your colleagues have long made difficult choices to maximize state dollars in education, sometimes at the expense of other areas of the budget. This proposal would only add to local costs, *unnecessarily*.

Reject the changes contained in the Assembly and Senate budget bills. Allow the law to work effectively as it currently does.

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